



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No. 103/2021
(SWP No. 2162/2017)

This the 9th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Anand Mathur, Member (A)**

Bilal Ahmod Dar, Age 23 Years,
S/o Ali Mohd Dar,
R/o. Mamgund Beerwah, Budgam

...Applicant

(*Nemo* for applicant)

Versus

1. Commr./Secretary to Government of J&K,
Civil Sectt. Jammu /Srinagar
2. Director General of Police J&K
Srinagar/Jammu
3. Deputy Commissioner Budgam
4. Sr. Superintendent of Police Budgam. ...Respondents

(Through Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)

Hon'ble Ms. Manjula Das, Chairman:

Brief facts of the case are that the brother of applicant, namely, Mr. Mohammad Afzal Dar, Constable No.513/IRP 5th Bn., was killed by some unknown militants on



02.03.2001. He left behind father, mother and two brothers. The applicant sought compassionate appointment. The Commandant IR 5th Bn. Beoli, Doda forwarded his case through letter dated 01.04.2013 to the DIG Police Range Jammu along with documents. Another communication was also sent to the District Magistrate Budgam for verification of character and after verification, a certificate of family was issued by the Tehsildar on 10.05.2012. Thereafter, dependency certificate was also issued on 03.01.2013. After completion of all the formalities, the respondent No.1 recommended his case for appointment as Follower, Class IV post, to which he sent his willingness. However, his case was rejected being time barred. Feeling aggrieved, the applicant filed SWP No.2162/2017 before the Hon'ble High Court of Jammu & Kashmir, seeking the following reliefs:

“(a) Mandamus commanding the respondents to make the appointment of the petitioner against any available post of Constable or any other equivalent /Suitable post, in terms of the mandate of SRO 43/94 read with various Court Judgments referred to in the petition and report compliance in the court within a period of one week.

(b) Mandamus commanding the respondents to sanction family pension in favour of the petitioners mother in terms of the Pension Rules contained in J&K CSR's Vol. 2. In the alternative the defaulting officials may be directed to compensate the family for their loss and sufferings by recovering the amount of accrued pension from out of their salaries and savings.



(c) Mandamus commanding the respondents to produce all the records pertaining to the illegal appointment made within last several years and also records pertaining to the case of petitioner in the offices of Respondent No. 1 and 2.”

2. On behalf of the respondents, a detailed counter affidavit is filed. It is not disputed that the brother of the applicant was killed by the militants. However, in terms of SRO No.43 of 1994, it is mandatory that the application seeking compassionate appointment is to be submitted by the concerned within a period of one year from the death of employee and since the application was submitted belatedly, the case of the applicant was rightly rejected by the respondents. Reliance is placed upon the decision of Hon’ble Supreme Court in **Umesh Kumar Nagpal v. State of Haryana & others**, JT 1994 (3) SC 525.

3. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.103/2021.

4. Today, there is no representation for the applicant. We have perused the records and heard Mr. Amit Gupta, learned Additional Advocate General.



5. An amendment was effected in SRO 43 of 1995 vide SRO 255 of 2016, whereby the spouse, unmarried son and unmarried daughter of a deceased police personnel, who died as a result of militancy related incident, has to be considered for appointment in Police Department. In the present case, the applicant is the brother of deceased employee and accordingly, he is not entitled for compassionate appointment.

6. The Hon'ble Supreme Court in **Umesh Kumar Nagpal** (supra) has observed that the compassionate employment cannot be granted after a lapse of a reasonable period, which must be specified in the Rules. Relevant portion of the judgment is quoted hereinbelow:

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

7. It is needless to emphasize that the provisions for compassionate employment have necessarily to be made by the rules or by the executive instructions issued by the Government or the public authority concerned. The employment cannot be offered by an individual functionary on an ad hoc basis.”



In these circumstances, when the applicant chose to prefer application seeking compassionate appointment belatedly, the respondents were justified in rejecting his case.

7. Accordingly, in view of the judgment of Hon'ble Supreme Court, referred to above, we are not inclined to interfere with the decision of the respondents. The T.A. sans merit and is accordingly dismissed. There shall be no order as to costs.

(Anand Mathur)
Member (A)

(Manjula Das)
Chairman

September 9, 2021
/sunil/jyoti/mk